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Application No.: 10/606,376

Docket No.: JCLA11125-R3

REMARKS

This is a full and timely response to the outstanding nonfinal Office Action mailed February 06, 2007. Reconsideration and allowance of the application and presently pending claims 18-29 are respectfully requested.

Response to Claims Objection

The Office Action objected to claims 22-28 as being not in accordance with 37 CFR 1.126 by failing to present proper claim numbering. To overcome the objection, claims 22-28 have been renumbered as claims 23-29 as suggested by the Office Action and the dependency of renumbered claim 29 has been accordingly renumbered, to overcome the objection.

Discussion of Cited Prior Art Reference

The Examiner cited foreign patents, i.e., Amano (JP 04033202 A) and Ishii et al. (JP 02157789A), relying on which the Examiner rejected the present invention as set forth in claims 18-29, either under 35 U.S.C. 103(a). However, only Abstracts in English language and drawings without detail description are given thereby. Applicants respectfully submit this is inappropriate.

It has been held that

"[W]hen an abstract is used to support a rejection, the evidence relied upon is the facts contained in the abstract, not additional facts that may be contained in the underlying full text document. Citation of and reliance upon an abstract without citation of and reliance upon the underlying scientific

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documents is generally inappropriate where both the abstract and the underlying document are prior art. See *Ex parte Jones*, 62 USPQ2d 1206, 1208 (Bd. Pat. App. & Inter. 2001) (unpublished)", and "[T]o determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed. If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection. The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection. The rationale for this is several-fold. It is not uncommon for a full text document to reveal that the document fully anticipates an invention that the abstract renders obvious at best. The converse be also be true, that the full text document will include teaching away from the invention that will preclude an obviousness rejection under 35 U.S.C. 103, when the abstract alone appears to support the rejection. An abstract can have a different effective publication date than the full text document. Because all patentability determinations are fact dependent, obtaining and considering full text documents at the earliest practicable time in the examination process will yield the fullest available set of facts upon which to determine patentability, thereby improving quality and reducing pendency". See MPEP §706.02 II.

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Accordingly, Applicant respectfully requests the Examiner provide full texts in English language underlying the abstracts in a next Office Action, and the next Office Action should not be made final.

It should be noted that Applicants are answering the current Office Action without enough information, most reasoning being relied on uncertain understanding of the Abstracts and the drawings of Amano and Ishii et al. in order to prompt the prosecution. However, if there is any improper view point toward the cited references when considering the full text of either Amano, or Ishii et al., Applicants reserve the right to re-explain the cited references.

Discussion of Office Action Rejections

The Office Action rejected claims 18, 19, 22-26 and 28 under 35 U.S.C. 103(a) as being unpatentable over Amano (JP 04033202 A) and Ishii et al. (JP 02157789A).

In response thereto, Applicant hereby otherwise traverse these rejections, and submit that independent claims 18, 22 and its dependent claims 19, 23-26, as kindly renumbered by the Examiner addressed hereby are novel and unobvious over Amano and Ishii et al., and thus should be allowed.

With respect to claim 18, as previously presented, recites the limitation of "at least one U-shaped lamp tube ..., having : two electrodes substantially located toward the bottom surface of the frame; and two straight portions having the same length" that is new and undisclosed by Amano in view of Ishii et al: (Emphasis added).

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Addressing this limitation, the Examiner admitted that "Amano does not disclose the U-shaped lamp tube having two straight portions having the same length" (page 3 of the current Office Action). However, the Examiner cited Ishii et al. as a second reference to modify Amano to arrive at the present invention.

Below are drawings of respectively Amano and Ishii et al. which are taken as evidence of the concerned teachings.

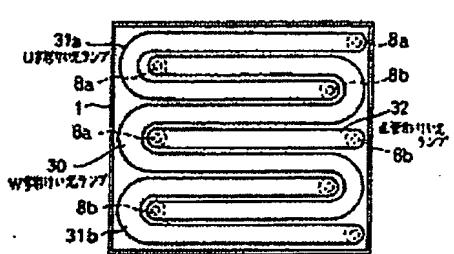


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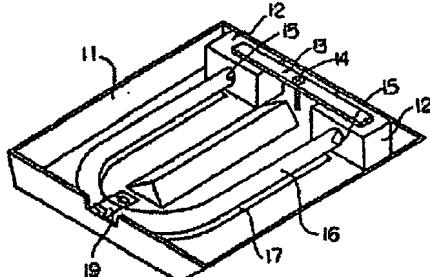


図 1 図

Applicants submit that there is no suggestion or motivation to modify Amano with Ishii et al.' teaching. The Examiner contended that "[I]t would have been obvious to ... to use the configuration of Ishii et al. in the apparatus of Amano to improve the starting performance of the apparatus". Applicants respectively disagree.

Applicants submit that there is no "reasonable expectation of success" as required as set forth in MPEP §2143.02 of the proposed modification.

According to Amano, it is disclosed that "[T]o densely arrange luminous sections, improve brightness, and unify brightness by arranging end sections of fluorescent lamps in addition to space regions surrounded by bent sections of the bent type fluorescent lamps and

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linear portions connected to them” and “Linear sections 7b... of adjacent lamps are inserted and arranged into spaces 9 surrounded by U-shaped bent sections 5 and linear sections 6a, 6b connected to them of the U-shaped cold-cathode fluorescent lamps 3a, 3b, 3c, 3d, thus luminous sections exist in the space sections 9. ... the luminous sections inserted and arranged into the space sections 9 are located near the bent sections 5 surrounding the spaces 9 and becomes similar to a planar light source, brightness is improved, and illuminance distribution is unified.”

(Abstract; Emphasis added).

Applicants submit that Ishii et al. discloses two straight portions of the lamp tube. If as proposed by the Examiner the U-shaped lamp tube of Amano is modified to have two straight portions having same length, the frame have to be larger to provide more space for receiving the U-shaped lamp tube therein, and therefore the intended purpose of Amano that is to densely arrange luminous sections can not be satisfied. See MPEP §2143.01.V : THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE -- "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)."

For at least the foregoing reasons, Applicants submit that Amano and Ishii et al., alone or in combination does not render the present invention as set forth in claim 18 *prima facie* obvious, and claim 18 and its dependent claim 19 are submitted to be novel and unobvious over Amano and Ishii et al., and thus should be allowable. See MPEP §2143 : Basic Requirements of a Prima Facie Case of Obviousness -- The teaching or suggestion to make the claimed combination and the reasonable

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expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As to independent claim 22, it contains the equivalent limitation that has been discussed above as novel and unobvious over Amano and Ishii et al., that "at least two U-shaped lamp tube ..., having: **two electrodes substantially located toward the bottom surface of the frame; and two straight portions having the same length**" that is new and undisclosed by Amano and Ishii et al. (Emphasis added). As such, Applicants submit that claim 22 is novel and unobvious over Amano and Ishii et al. and thus should be allowed. Claims 23-26 depend on allowable independent claim 22, and thus should also be allowed.

The Office Action also rejected claims 20, 21, 27 and 29 under 35 U.S.C. 103(a) as being unpatentable over Amano in view of Ishii et al. as applied to claims 18 and 22, and further in view of Kim (U.S. Patent 6,490,015).

In response thereto, Applicant submits that claims 20, 21 depend on allowable independent claim 18, and claims 27 and 29 depend on allowable independent claim 22, and thus they should also be allowable.

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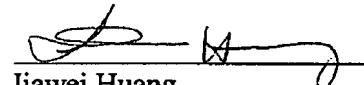
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CONCLUSION

For at least the foregoing reasons, it is believed that the pending claims 18-29 are in proper condition for allowance and an action to such effect is earnestly solicited. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

Respectfully submitted,
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